

8(a) CONTRACTING

DOT PROCUREMENT REINVENTION EXPERIMENT No. CGFHWA01

Preface

With the advent of the National Performance Review (NPR) under the direction of Vice President Gore, the door was opened for Federal agencies to examine the way in which goods and services were procured, and to create innovative alternatives to streamline the process where needed. One of the procurement processes deemed ripe for reinvention was 8(a) contracting (Section 8(a) of the Small Business Act - 15 U.S.C. 644, as amended). The existing process was overburdened with duplicate procurement offices, Small Business Administration (SBA) and the Department of Transportation (DOT) Operating Administrations, contract documents (prime and sub-contracts), and processes (legal reviews, contract office reviews, and cost evaluations), which added little or no value. These processes simply evolved over time due to Federal regulations, organizational structure, and the relationship between the SBA and Federal agencies.

The Federal Highway Administration (FHWA) and the United States Coast Guard (USCG) joined forces to establish a task force to explore the potential for making improvements to the 8(a) contracting process. A streamlining plan was crafted and submitted to the DOT Reinvention Laboratory for consideration. It was subsequently accepted. This NPR experiment is the first involving multiple DOT administrations (FHWA/USCG) and other Federal agencies (SBA). The Task Force subsequently met with top management and legal officials at both DOT and SBA over a period of several months to structure a Memorandum of Understanding (MOU).

Simply stated, under the MOU, SBA's involvement will be limited to certifying DBE contractors under the 8(a) program, and accepting agency requirements in behalf of 8(a) contractors. The remainder of the procurement related activity, including SBA signature authority, will pass to the requiring agency with no need to revisit the SBA for further approvals. This change will effectively cut a significant amount of time off the present 8(a) contract award process by not requiring the SBA to remain in the contracting business, but instead, permitting the SBA to focus its resources on providing assistance, counseling, and training for small business firms.

A secondary attribute of the MOU is making Simplified Acquisition Procedures (SAP) available for award under the 8(a) program. SAP have traditionally not been available to 8(a) firms because the 8(a) process was too cumbersome, which defeated the advantage of SAP. Under the MOU, SAP 8(a) awards are now not only possible, but may be accomplished with the same simplified manner as all other small purchases. This new feature will make available to 8(a) firms, a significant number of requirements to which 8(a) firms have traditionally been excluded.

This procurement reinvention experiment has potential for national recognition and impact, in that it will significantly streamline the way in which Federal agencies award contracts under the 8(a) Program.

MEMORANDUM OF UNDERSTANDING
between the
U.S. SMALL BUSINESS ADMINISTRATION
and the
U.S. DEPARTMENT OF TRANSPORTATION

I. PURPOSE

The purpose of this Memorandum of Understanding (MOU) between the U.S. Small Business Administration (SBA) and the U.S. Department of Transportation (DOT) is to establish streamlining procedures for expediting the award of requirements pursuant to Section 8(a) of the Small Business Act (15 U.S.C. 644, as amended) (hereinafter the “Act”). This MOU is established in conjunction with an experiment registered with the DOT Procurement Reinvention Laboratory authorized under the National Performance Review program (attached). An objective of the Laboratory is to promote procurement process efficiencies through pilot testing of innovative ideas.

II. OBJECTIVES

- a. To reduce the interval between the time DOT sends an offering letter to SBA and SBA acceptance of the offering to a maximum of five workdays.
- b. To eliminate SBA approval of contracts executed under the authority of this MOU.
- c. To establish a uniform policy and procedure regarding application of Simplified Acquisition Procedures (SAP) to the 8(a) contracting process, where applicable.

III. SCOPE

This MOU provides for the award of both contracts and purchase orders under the provisions of Section 8(a) of the Small Business Act as implemented by the Federal Acquisition Regulation (49 C.F.R.) (FAR) and SBA’s Minority Enterprise Development Program regulations (13 C.F.R. 124).

This MOU encompasses all competitive and non-competitive acquisitions of requirements offered by the DOT and accepted by the SBA into the 8(a) program, including but not

limited to: Acquisition of Commercial Items (FAR Part 12), awards under the Simplified Acquisition Procedures (FAR Part 13), awards resulting from Sealed Bids (FAR Part 14), Contracting by Negotiation (FAR Part 15), and Construction and Architect and Engineering services (FAR Part 36).

This MOU shall apply to all SBA field offices throughout the United States, and for the DOT, the following currently identified procurement offices:

Federal Highway Administration
Office of Acquisition Management
400 Seventh Street, SW
Washington, DC 20590

Commandant (G-ACS)
U. S. Coast Guard Headquarters
Procurement Management Division
2100 Second Street, SW
Washington, DC 20593-0001

Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, VA 20166

Commander (f)
U. S. Coast Guard Maintenance
and Logistics Command (Atlantic)
300 E. Main Street, Suite 875
Norfolk, VA 23510-9107

Federal Highway Administration
Central Federal Lands Highway Division
555 Zang Street
Lakewood, CO 80228

Commander (f)
U. S. Coast Guard Maintenance
and Logistics Center (Pacific)
Coast Guard Island, Building 54A
Alameda, CA 94501-5100

Federal Highway Administration
Western Federal Lands Highway
Division
610 East Fifth Street
Vancouver, WA 98661

Transportation Administrative
Services Center (TASC)
400 Seventh Street, SW
Washington, DC 20590

All other contracting offices of the DOT will conduct 8(a) awards under currently established practice as defined in 13 C.F.R. Part 124 and the FAR. At such time as it is determined by both the SBA and DOT that the pilot program is successful, and it is advantageous to do so, other DOT procurement offices will be enrolled in the pilot project, as warranted.

IV. RESPONSIBILITIES

a. The SBA shall:

1. delegate to each of the following DOT Operating Administrations: Federal Highway Administration, U.S. Coast Guard, and Transportation Administrative Services Center, and any other Operating Administrations mutually agreed to by DOT and SBA and added through amendment to this MOU, with specific authority to re-delegate to warranted contracting officers, as appropriate, its authority under Section 8(a) (1) (A) of the Act to enter into prime contracts and its authority under Section 8(a) (1) (B) of the Act to subcontract the performance of that contract to an eligible 8(a) Program Participant (participant);

2. establish and implement uniform procedures for use by all SBA field offices in conjunction with this pilot test. As a minimum, these procedures shall inform the field offices of this pilot test and establish a procedure for communicating the offer/acceptance of 8(a) requirements within 5 working days between the time the SBA receives an offer letter from one of the designated DOT procurement offices until an SBA acceptance letter is issued;
3. review the DOT's offer letter and issue an acceptance letter, where appropriate, within 5 working days of receipt. Acceptance goes to all elements of eligibility (e.g., determinations of adverse impact, Standard Industrial Classification (SIC) code appropriateness, and program eligibility). SBA will make a final determination of size eligibility for the procurement as of the date of the concern's initial offer which includes price;
4. provide 8(a) participants with assistance on proposal development and/or contract negotiations when requested;
5. retain the right to appeal contract disagreements to the Secretary of the DOT on behalf of the 8(a) participant pursuant to 13 C.F.R. 124.320(b);
6. reserve the right to perform on-site contract surveillance reviews at the DOT to ensure compliance with this MOU and applicable regulations, identify problems, and recommend corrective action.
7. Reserve the right to withdraw any delegation issued as a result of this MOU; and
8. Select an appropriate 8(a) participant when the DOT submits an "open" offer letter for a sole source requirement.

b. The DOT shall:

1. determine which requirements are suitable to be offered to the 8(a) program in accordance with FAR Subpart 19.8, and where appropriate, identify, in conjunction with the appropriate SBA servicing offices, 8(a) participants capable of performing these requirements;
2. submit the offer letter for new sole source requirements to the SBA's servicing District Office having cognizance of the selected 8(a) participant;
3. where an 8(a) participant has not been selected for a requirement, submit the "open" offer letter for sole source requirements to the SBA field

office that services the geographical area where the DOT buying activity is located;

4. submit the offer letter for competitive 8(a) procurements to the SBA field office that services the geographical area where the DOT buying activity is located, except that offer letters for construction work will be sent to the SBA field office located in the geographical area where the work will be performed;

5. advertise all 8(a) competitive procurements in the Commerce Business Daily and provide a copy of the announcement to the SBA's coordinating office.

6. ensure that all applicable requirements of 13 C.F.R. 124 are followed;

7. submit requirements for review by agency legal counsel for determination of legal sufficiency, in accordance with DOT Operating Administration procedures.

8. include the SBA servicing District Office on contract distribution lists;

9. report to the SBA's Assistant Administrator for Business Development, Office of Minority Business Enterprise, on a quarterly basis, a summary of all 8(a) contracting activities. The report will be provided in electronic format and shall include the contractor's name, address, and SBA case number; requirement number; contract number, award amount, and the contract type and term; and, as appropriate, modification number, type, date, modification amount; and

10. ensure that all contracts awarded pursuant to this MOU contain special provisions required to coordinate contract termination and novation proceedings related to contracts executed pursuant to this MOU with the SBA prior to initiating action.

V. EXECUTION

Following SBA acceptance of a DOT requirement, and subsequent solicitation, the cognizant CO shall execute a prime contract (or purchase order) between the DOT, and the 8(a) participant. Contract execution shall be on (Standard Forms) SF26 (award of supplies/services), SF347 (simplified acquisitions), SF1442 (award of construction), or SF1449 (award of commercial items), as appropriate. A single copy of the appropriate form shall be used. The "Issued by" block shall identify the awarding DOT office. The cognizant SBA District office for the participant shall be identified in the award document. The participant name and address shall be listed as the contractor.

Each participating DOT agency shall issue procurement instrument numbers. (An SBA subcontract number will not be issued.).

A single DOT CO signature may be used in executing the contract or purchase order (A SBA CO signature will not be required). The CO title shall include the appropriate DOT operating administration and the SBA, as illustrated below:

Contracting Officer for the
(DOT operating administration)

VI. MEASURE OF EFFECTIVENESS

To determine the effectiveness of this pilot test, the DOT will accumulate data which may include awarded amounts under both contract and SAP, Procurement Administrative Lead Times (PALT), or numbers of awards. Specific data tracking elements will be defined during implementation of the pilot project. Fiscal Year 1996 will serve as the data baseline. The DOT 8(a) goal is 11.5 percent for this pilot project.

VII. TERM

This MOU will take effect on the date of acceptance and will remain in effect for one year, at which time, it may be renewed by mutual agreement of the SBA and the DOT.

VIII. AMENDMENT

This MOU may be amended at any time by mutual agreement of the SBA's AA/MED and the DOT's Senior Procurement Executive. Any amendments must be in writing..

IX. TERMINATION

This MOU may be terminated by either SBA's AA/MED and the DOT's Senior Procurement Executive upon thirty (30) days advance, written notice.

X. ADMINISTRATION

The following persons are points of contact for administrative matters pertaining to this MOU:

Mr. Frank J. Waltos, (HAM-20)
Office of Acquisition Management
Federal Highway Administration
202-366-4205

Ms. Dani Wildason, (G-CPM-S/1)
Procurement Management Division
U.S. Coast Guard Headquarters
202-267-1154

Mr. Arthur E. Collins, Jr.
Assistant Administrator for Business
Development
U.S. Small Business Administration
202-205-6423

Mr. William Fisher
Deputy Associate Administrator
Minority Enterprise Development
U.S. Small Business Administration
202-205-6412

Mr. Will Terry Moore, (S-40)
Office of the Secretary
Office of Small and Disadvantaged
Business Utilization
Department of Transportation
202-366-1902

Ms. Cynthia Blackmon Transportation
Administrative
Services Center (TASC)
202-366-4968

XI. ACCEPTANCE

The undersigned parties hereby accept the terms of this MOU:

 /ss/
1/17/97 Frederico F. Peña, Secretary
U.S. Department of Transportation

 /ss/
1/17/97
Mortimer L. Downey, Deputy Secretary
U.S. Department of Transportation

 /ss/
1/22/97
Rodney E. Slater, Administrator
Federal Highway Administration

 /ss/
1/22/97
Admiral Robert E. Kramek, Commandant
U.S. Coast Guard

 /ss/
1/23/97
George C. Fields, Director
Transportation Administrative Services Center

 /ss/
1/23/97
Luz A. Hopewell, Director
Office of Small and Disadvantaged
Business Utilization

 /ss/
1/19/97 Philip Lader, Administrator
U.S. Small Business Administration

 /ss/
1/17/97
Ginger Lew, Deputy Administrator
U.S. Small Business Administration

 /ss/
1/17/97
Darryl Dennis,
Counselor to the Administrator
U.S. Small Business Administration

 /ss/
1/17/97
Ronald K. Hobson, Associate Deputy
Administrator for Government
Contracting and Minority Enterprise
Development
U.S. Small Business Administration

 /ss/
1/17/97
Calvin Jenkins, Associate Administrator
for Minority Enterprise Development
U.S. Small Business Administration

IMPLEMENTATION PROCEDURES
for
STREAMLINING THE 8(a) CONTRACTING PROCESS

I. APPLICABILITY

These procedures implement and supplement the Memorandum of Understanding (MOU) dated January 17, 1997 (Attachment A) between the Department of Transportation (DOT) and the Small Business Administration (SBA). The MOU is presently applicable to the SBA and selected procurement offices within the Federal Highway Administration (FHWA), United States Coast Guard (USCG), and the Transportation Administrative Services Center (TASC), which are designated DOT pilot sites. These guidelines implement the intent of the MOU and apply to all new procurement requirements under the 8(a) program effective March 1, 1997 through the term of the MOU.

II. WARRANTS

Under the terms of the MOU, the Heads of Contracting Activities (HCA) of the pilot Operating Administrations (OA) have added concurrent warrants to designated DOT Contracting Officers, authorizing them to make direct awards of 8(a) contracts within their respective current warrant limits. A current list of these contracting officers has been provided to the SBA, and will be updated as required.

III. COVER PAGE

All solicitations for requirements offered to the 8(a) program under this MOU shall contain a cover sheet (Attachment B) providing information to potential offerors.

IV. GUIDELINES

The following changes to the Federal Acquisition Regulation (FAR) are required to implement the DOT/SBA MOU.

Note 1: The following changes are applicable only to requirements processed under the attached DOT/SBA MOU.

Note 2: Unless otherwise stated, the “agency contracting officer” is a DOT OA contracting officer having concurrent SBA authority to enter into direct 8(a) contracts.

Acquisition of Commercial Items (FAR Part 12)

12.102 Applicability

(b) INCLUDE: Subpart 19.8, The 8(a) Program.

12.203 Procedures for solicitation, evaluation, and award.

INCLUDE: Subpart 19.8, The 8(a) Program

Simplified Acquisition Procedures (FAR Part 13)

13.103 Policy

(j) ADD TO LAST SENTENCE: Subpart 19.8, The 8(a) Program.

Small Business Programs (FAR Part 19)

Subpart 19.508 Solicitation provisions and contract clauses

(e) CHANGE: the last part of the paragraph to state “except those small business set-asides awarded using simplified acquisition procedures in Part 13,” (i.e., 52.219-14 applies to all 8(a) awards, including FAR Part 13 awards).

Subpart 19.800 General

(a) ADD: Pursuant to the Memorandum of Understanding (MOU) between the Department of Transportation (DOT) and the Small Business Administration (SBA), SBA delegates to the HCA’s of mutually agreed upon Operating Administrations within the DOT, its authority to contract directly with program participants under Section 8(a) of the Small Business Act.

(b) REPLACE ENTIRE PARAGRAPH WITH: Contracts may be awarded by the selected DOT procurement offices directly to eligible 8(a) contractors on either a sole source or competitive basis.

19.804 Evaluation, offering, and acceptance.

19.804-2 Agency Offering

(a) ADD: The opening paragraph of the offering letter must state that the requirement is being offered under the Department of Transportation/Small Business Administration Memorandum of Understanding for Streamlined 8(a) Contracting and identify the agency procurement office as a pilot site under the MOU. All other items of the offering letter remain in accordance with the FAR **with the exception of offering letters for requirements under FAR Part 13** (see (c)).

(b) REPLACE ENTIRE PARAGRAPH WITH: The agency offer letter shall be sent to the SBA as follows: (1) For sole source requirements where an 8(a) participant is identified, send to the SBA's District Office (addressed to the cognizant Business Opportunity Specialist) responsible for servicing the selected participant; (2) For sole source requirements where an 8(a) participant has not been identified, send to the SBA field office that services the geographical area where the DOT procurement office is located; (3) For competitive requirements, sent to the SBA field office that services the geographical area where the DOT procurement office is located, **except** that offer letters for **construction** will be sent to the SBA field office located in the geographical area where the work will be performed. All offering letters should be faxed or e-mailed to the SBA wherever possible.

(c) NEW: **Part 13 requirements.** The award of a purchase order constitutes an offer by the Government to the contractor to perform. As such, once an 8(a) contractor has been identified, the agency contracting officer will establish the price with the selected 8(a) contractor and prepare and issue a purchase order to the 8(a) contractor in the conventional manner prescribed in Part 13, provided the applicable clauses are included as prescribed in 19.811-3. Concurrently, an offering letter (in accordance with (a) above) and a copy of the purchase order with the requisite provisions and clauses shall be faxed or e-mailed to the cognizant SBA Business Opportunity Specialist (BOS). The SBA BOS will have 5 working days to reply as to the eligibility of the 8(a) contractor. Absent a negative eligibility determination from the SBA via the agency contracting officer, the contractor may begin performance within 7 working days of receipt of the purchase order.

19.804-3 SBA Acceptance

(a) CHANGE: from 15 working days to 5 working days. ADD: SBA's acceptance letters should be faxed or e-mailed to the offering contracting agency whenever possible.

(b) ADD: Contents of the acceptance letter shall be limited to the eligibility of the recommended 8(a) contractor and a statement advising the agency that, upon receipt of the contractor's initial priced proposal, the cognizant SBA Business Opportunity Specialist (BOS) shall be contacted by telephone to ensure the firm is still eligible. The SBA BOS, at that time, shall respond to the agency via fax or e-mail within 2 working days as to the continued eligibility of the 8(a) firm.

19.805 Competitive 8(a)

19.805-2 Procedures

(a) ADD: Commercial Items (Part 12) and Simplified Acquisition Procedures (Part 13).

(c) (1) REPLACE ENTIRE PARAGRAPH WITH: When the contracting officer has determined the low bidder (in sealed bid requirements) or apparent successful offeror (in negotiated acquisitions), the name, address, and telephone number of the firm shall be faxed or e-mailed to the SBA BOS at the field office servicing the identified 8(a) participant. The SBA shall determine the eligibility of the firm and advise the contracting

officer by fax or e-mail within 5 working days. If the participant is determined ineligible, the contracting officer will submit the name of the next low bidder or next apparent successful offeror (as applicable) to the cognizant SBA field office.

(c)(2) DELETE PARAGRAPH (see (c)(1)).

19.806 Pricing the 8(a) contract.

(a) REPLACE ENTIRE PARAGRAPH WITH: The contracting officer shall price the 8(a) contract in accordance with Subpart 15.8. If required by Subpart 15.8, the contracting officer shall obtain certified cost or pricing data from the 8(a) contractor.

19.808 Contract negotiation.

19.808-1 Sole source.

(a) REPLACE ENTIRE PARAGRAPH WITH: The 8(a) contractor is responsible for negotiating with the agency within the time established by the agency. If the 8(a) contractor does not negotiate within the established time and the agency cannot allow additional time, the agency may, after notifying the SBA, proceed with the acquisition from other sources.

(b) REPLACE ENTIRE PARAGRAPH WITH: The agency is delegated the authority to negotiate directly with the 8(a) participant; however, if requested by the 8(a) participant, the SBA may participate in negotiations.

19.808-2 Competitive.

CHANGE PARAGRAPH : In competitive negotiated acquisitions, the agency contracting officer conducts negotiations directly with the competing 8(a) firms.

19.811 Preparing the contracts.

19.811-1 Sole Source

(a) REPLACE ENTIRE PARAGRAPH WITH: The contract to be awarded by the agency to the 8(a) contractor shall be prepared in accordance with operating administration procedures and the DOT/SBA MOU for 8(a) streamlined acquisitions. The contracting officer may use the following award forms: (Standard Form) SF26, (Optional Form) OF347 (simplified acquisitions), SF1442 (construction), SF1449 (commercial items), as appropriate.

(b) REPLACE ENTIRE PARAGRAPH WITH: The agency shall prepare the contract for award to the 8(a) contractor as stated in (a) above, except for the following:

(2) REPLACE ENTIRE PARAGRAPH WITH: Appropriate clauses modified for purposes of implementation of the DOT/SBA MOU per 19.811-3 shall be included.

(3) DELETE

(4) DELETE

(c) REPLACE ENTIRE PARAGRAPH WITH: **Award Document.** A single award document shall be used between the agency and the 8(a) contractor. As such, a single signature by the agency's contracting officer who is identified as having concurrent authority to enter into 8(a) contracts will suffice (i.e., an SBA signature will not be required). The DOT operating administration will be identified under the agency contracting officer's signature. The 8(a) contractor's signature shall be placed on the award document as the prime contractor, unless a separate continuation sheet is used (see *Optional method*). The 8(a) contractor's name and address shall be placed in the "awarded to" or "contractor name" block on the appropriate forms. **Optional method.** The agency may choose to utilize a continuation sheet (similar to a conventional tripartite format) if the contracting officer for the specific contract does not have concurrent 8(a) contracting authority. In this case, an agency contracting officer with concurrent 8(a) contracting authority will sign on a separate line. **Contract Numbering.** Except for internal SBA use, the SBA will not issue a separate SBA contract number. The Operating Administration may use its conventional contract numbering system.

(1) DELETE (see (c))

(2) DELETE (see (c))

(3) DELETE (see (c))

19.811-2 Competitive

DELETE ALL. Refer to 19.811-1 above.

19.811-3 Contract Clauses (*DEVIATED*)

(a) Insert the word, (***DEVIATED***) following the reference to 52.219-11.

(b) Insert the word, (***DEVIATED***) following the reference to 52.219-12.

(c) Insert the word, (***DEVIATED***) following the reference to 52.219-17.

(d) Insert the word, (***DEVIATED***) following the reference to 52.219-18.

(f) NEW: The contracting officer shall insert the clause at 52.252-5, Authorized Deviations in Provisions, in all 8(a) awards made pursuant to the DOT/SBA MOU.

(g) NEW: The contracting officer shall insert the clause at 52.252-6, Authorized Deviations in Clauses, in all 8(a) awards made pursuant to the DOT/SBA MOU.

19.812 Contract Administration

(b) (1) NEW: *Modifications*. In the case of modifications “beyond the scope” of the initial 8(a) contract award, a SBA determination of current eligibility of the 8(a) contractor by the SBA is required prior to proceeding with the modification, as prescribed under 13 CFR 124.318(c). The cognizant SBA BOS shall be contacted by telephone to ensure that the firm is still eligible. The SBA BOS shall respond to the agency via fax or e-mail within 2 working days as to the continued eligibility of the 8(a) firm. If the firm is determined to no longer be eligible, the out of scope modification shall not be issued.

<p>NOTE: The applicable FAR clauses revised pursuant to the MOU are presented in their new form in Attachment C</p>
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NOTICE TO OFFERORS

This procurement solicitation is being processed under a Memorandum of Understanding (MOU) between the Department of Transportation (DOT) and the Small Business Administration (SBA), under which the SBA has delegated to the DOT, authority to enter into 8(a) contracts directly with eligible 8(a) firms. The MOU implements a procurement reinvention experiment designed to streamline the procurement process for awards under the 8(a) program. The *[name of Operating Administration]* is a designated pilot agency under the MOU.

Under this pilot program, the *[name of Operating Administration]* will make the award directly to the 8(a) firm. SBA will not be a signatory to the award resulting from this solicitation. SBA will, however, retain responsibility for 8(a) certification, administering other eligibility related issues under the 8(a) program, and be available to 8(a) firms for counseling and assistance.

If you have any questions pertaining to this pilot program, please contact *[insert name, mailing address and telephone number of the Operating Administration contact person designated in the MOU]*.

52.219-11 Special 8(a) Contract Conditions. (*DEVIATION*) (FEB 1990)

As prescribed in 19.811-3(a), insert the following clause:

SPECIAL 8(a) CONTRACTOR CONDITIONS (FEB 1990)

The Small Business Administration (SBA) agrees to the following:

(a) (*DELETED*)

(b) (*DELETED*)

(c) Except for novation agreements and advance payments, delegates to the [insert name of contracting agency] the responsibility for administering the subcontract to be awarded hereunder with complete authority to take any action on behalf of the Government under the terms and conditions of the subcontract; provided, however, that the [insert name of contracting agency] shall give advance notice to the SBA before it issues a final notice terminating the right of a subcontractor to proceed with further performance, either in whole or in part, under the subcontract for default or for the convenience of the Government.

(d) (*DEVIATION*) That payments to be made under this contract will be made directly to the subcontractor by the [insert name of contracting agency].

(e) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the Contracting Officer cognizable under the “Disputes” clause of said subcontract.

(f) To notify the [insert name of contracting agency] Contracting Officer immediately upon notification by the subcontractor that the owner or owners upon whom 8(a) eligibility was based plan to relinquish ownership or control of the concern
(End of clause)

52.219-12 Special 8(a) Subcontract Conditions. (*Deviation*) (FEB 1990)

As prescribed in 19.811-3(b), insert the following clause:

SPECIAL 8(a) SUBCONTRACT CONDITIONS (FEB 1990)

(a) (*DEVIATION*) The Small Business Administration (SBA) has delegated to the [insert name of contracting agency] authority to enter into an 8(a) contract directly with the participant to furnish the supplies or services as described therein.

(b) (*DEVIATION*) The [insert name of participant], hereafter referred to as the subcontractor, agrees and acknowledges as follows:

(1) That it will, for and on behalf of the SBA, fulfill and perform all of the requirements of Contract No. [insert number of contract] for the consideration stated therein and that it has read and is familiar with each and every part of the contract.

(2) That the SBA has delegated responsibility, except for novation agreements and advance payments, for the administration of this subcontract to the _____ [insert name of contracting agency] with complete authority to take any action on behalf of the Government under the terms and conditions of this subcontract.

(3) That it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the designated Contracting Officer of the [insert name of contracting agency].

(4) That it will notify the [insert name of contracting agency] Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(c) Payments, including any progress payments under this subcontract, will be made directly to the subcontractor by the [insert name of contracting agency].

(End of clause)

52.219-17 Section 8(a) Award. (DEVIATION) (DEC 1996)

As prescribed in 19.811-3(c), insert the following clause:

SECTION 8(a) AWARD (FEB 1990)

(a) By execution of a contract, the Small Business Administration (SBA) agrees to the following:

(1) **(DELETED)**

(2) Except for novation agreements, delegates to the [insert name of contracting activity] the responsibility for administering the contract with complete authority to take any action on behalf of the Government under the terms and conditions of the contract; provided, however that the contracting agency shall give advance notice to the SBA before it issues a final notice terminating the right of the subcontractor to proceed with further performance, either in whole or in part, under the contract.

(3) That payments to be made under the contract will be made directly to the subcontractor by the contracting activity.

(4) To notify the [insert name of contracting agency] Contracting Officer immediately upon notification by the subcontractor that the owner or owners upon whom 8(a) eligibility was based plan to relinquish ownership or control of the concern.

(5) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the cognizant Contracting Officer under the "Disputes" clause of the subcontract.

(b) The offeror/subcontractor agrees and acknowledges that it will, for and on behalf of the SBA, fulfill and perform all of the requirements of the contract.

(c) The offeror/subcontractor agrees that it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the cognizant Contracting Officer of the _____[insert name of contracting agency].

(End of clause)

**52.219-18 Notification of Competition Limited to Eligible 8(a) Concerns.
(DEVIATION) (JUL 1996)**

As prescribed in 19.811-3(d), insert the following clause:

**NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(a) CONCERNS
(JUL 1996)**

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer:

(1) **(DEVIATION)** SIC code [*] is specifically included in the Offeror's approved business plan; and

(2) **(DELETED)**

(3) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(b) By submission of its offer, the Offeror certifies that it meets all of the criteria set forth in paragraph (a) of this clause.

(c) **(DEVIATION)** Any award resulting from this solicitation will be made directly by the [insert name of contracting agency] to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d)(1) **(DEVIATION)** Agreement. A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term "United States" includes its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures, a small business concern may furnish the product of any domestic firm. This subparagraph does not apply in connection with construction or service contracts.

(2) **(DEVIATION)** The [insert name of subcontractor] will notify the [insert name of contracting agency] Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(End of clause)

(* Insert SIC code assigned to the acquisition by the contracting activity)